

CNR No.ODKH010024472026

**IN THE COURT OF THE SESSIONS JUDGE,
KHURDA AT BHUBANESWAR**

Present:

Shri Biranchi Narayan Mohanty, O.S.J.S,
Sessions Judge, Khurda at Bhubaneswar.
(JO Code OD-00013)

Crl. Revision No. 171 of 2026

(Arising out of the impugned order dated 25.03.2026 passed
by learned SDJM, Bhubaneswar in 1 C.C. No.6960 of 2024)

Sudhir Charan Mohanty, aged about 72 years, S/o. Late
Shyama Charan Mohanty, At Plot No.489, Nageswara Tangi,
Post-Old Town, PS-Shree Lingaraj, Bhubaneswar, Dist.-
Khorda, PIN-751002 *... Petitioner*

-Versus-

1. Sri Vairab Karthikeyan Pandian, aged about 50 years,
S/o. Not known, C/o. Smt. Sujata Rout Karthikeyan,
At-Qr.No.VIIR-7, Unit-6, near Bhubaneswar Club
Side Lane, Post-P.M.G., PS-Capital, Bhubaneswar,
Dist.-Khurda, PIN-751001
2. Sri Naveen Patnaik, aged about 78 years, S/o. Late
Bijayananda Patnaik, At-Naveen Niwas, Post-
Aerodrome Area, PS-Airport, Bhubaneswar, Dist.-
Khurda, PIN-751020 *...Opp. Parties*

Appearance

For the Petitioner : Mr. M. Nayak & Associates, Advs.
For the O.Ps. : Mr. A. Parija, Senior Advocate with
Mr.S.M.Dwibedy & Associates, Advs.

Date of conclusion of argument : 18.08.2026

Date of delivery of order : 02.09.2026

ORDER

The complainant/petitioner, in this revision U/s.438(1) of BNSS, 2023, has assailed the order dated 25.03.2026 passed in 1C.C.No.6960 of 2024 by learned SDJM, Bhubaneswar, whereunder & whereby, his complaint has been dismissed.

2. Mr. Manoj Nayak, learned counsel for the petitioner contended that the petitioner/complainant is a social worker and also an advocate by profession. The O.Ps. misappropriated public money of more than Rs.500 crores. Some of the social activists, who were the witnesses in the complaint case, obtained information through RTI about the aforesaid misappropriation/misutilization of huge public money. The complainant/petitioner when came across those information collected by his witnesses, found some substance about misappropriation of public money by the O.P.Nos.1 & 2. They by misutilizing those public money, visited different parts of the State in Helicopter and attended the public meeting. Accordingly, the complainant lodged an FIR on 14.08.2024 at Capital Police Station, Bhubaneswar. However, the IIC concerned did not register the FIR till 19.08.2024. Then, the complainant/petitioner submitted the written FIR before the higher authority i.e. the DCP, Bhubaneswar and the same was received at his office. Despite receipt of the FIR at the Office of the DCP, Bhubaneswar, no FIR was registered against the O.Ps. Accordingly, the complainant/petitioner filed the complaint against the O.Ps.,

vide 1 C.C. Case No. 6960 of 2024 for their involvement in commission of offences punishable U/s.166, 166-A, 417, 420, 426, 406, 463, 464, 467, 468 and 120-B of I.P.C. (U/s.198, 199, 318(2), 318(4), 324(2), 316(2), 336(1), 335, 338, 336(3) and 61(2) of BNS, 2023). But, the learned SDJM, Bhubaneswar has rejected the complaint filed by the complainant/petitioner on the ground that statutory compliance U/s.173(4) of BNSS was not made before presenting the compliant particularly when the complainant/petitioner has submitted a copy of the FIR at the office of DCP, Bhubaneswar when the IIC, Capital Police Station, Bhubaneswar refused to accept the same and secondly, with a wrong finding that the allegations leveled are omnibus in nature having no substance. Therefore, the order impugned is not sustainable.

3. Mr. Ashok Parija, learned Senior Advocate appearing for the O.Ps. contended that in terms of Section 173(4) of BNSS, the complainant/petitioner was required to send a copy of the FIR, which he had intended to lodge or tendered to the IIC, Capital Police Station, Bhubaneswar to the DCP, Bhubaneswar by registered post. In this case, after refusal to receive/register the FIR by the IIC, Capital Police Station, Bhubaneswar, the complainant/petitioner did not send the exact copy of the FIR to the DCP, Bhubaneswar by post, rather relied upon a receipt to justify that he had submitted the FIR before the DCP, Bhubaneswar without any authenticity.

Secondly, Mr. Ashok Parija, learned Senior Advocate contended that facts/allegations narrated in the so called FIR dated 14.08.2024, the FIR dated 19.08.2024 submitted at the office of the DCP, Bhubaneswar and in the complaint petition are contradictory to each other and completely based on vague assertions in absence of any specific material or evidence regarding misutilization/misappropriation of public money by the O.P.Nos.1 & 2. At the time of consideration by the learned Magistrate to send the complaint to the local police for its registration and investigation in terms of Section 156(3) of Cr.P.C. (U/s.175(3) of BNS, 2023), it is the bounden duty of the Magistrate to first satisfy himself whether any case has been made out or not from the facts narrated in the complaint petition vis-à-vis connected papers relied upon by the complainant/petitioner. Therefore, the learned Magistrate, after taking into consideration the averments/allegations made in the 1st FIR and the allegations/complaint made before the DCP, Bhubaneswar and in the complaint petition did not find any substance in the allegations leveled by the complainant/petitioner against the O.Ps. and accordingly, rightly dismissed the complaint. In support of such contention, learned Senior Advocate relies upon the decisions of the Hon'ble Supreme Court in the case of **Priti Agarwalla and others Vs. State of GNCT of Delhi and others** reported in 2024 SCC OnLine SC 973, in the case of **Usha Chakraborty and another Vs. State of West Bengal and another** reported in (2023) 15 SCC 135, in the

case of **Prof. R.K. Vijayasathy and another Vs. Sudha Seetharam and another** reported in (2019) 16 SCC 739 and in the case of **XXX Vs. State of Kerala and others** reported in (2026) 6 SCC 770.

Thirdly, Mr. Ashok Parija, learned Senior Advocate contended that the Revisional Court while exercising the jurisdiction in terms of Section 438 of BNSS, 2023 has only to see whether any illegality has been committed by the learned Magistrate while passing the impugned order or if the impugned order is allowed to stand, then, it would amount to miscarriage of justice. In the present case, since no illegality has been committed by the learned Magistrate while passing the impugned order or in absence of any perversity in the impugned order, there is no scope before this Revisional Court to interfere with the impugned order. In support of such contention, learned Senior Advocate relies upon the decisions of the Hon'ble Supreme Court in the case of **Amit Kapoor Vs. Ramesh Chander and another** reported in (2012) 9 SCC 460, in the case of **Jagannath Choudhary and others Vs. Ramayan Singh and another** reported in (2002) 5 SCC 659 and a decision of our Hon'ble Court in the case of **Binay Kumar Sahani Vs. Meera Sahani and others** reported in 2025 SCC OnLine Ori 363.

4. The complainant/petitioner has filed the complainant, vide 1 C.C. Case No. 6960 of 2024 in the Court of learned SDJM, Bhubaneswar against the O.P.Nos.1 & 2 for their involvement in commission of offences punishable U/s.166,

166-A, 417, 420, 426, 406, 463, 464, 467, 468 and 120-B of I.P.C. (U/s.198, 199, 318(2), 318(4), 324(2), 316(2), 336(1), 335, 338, 336(3) and 61(2) of BNS, 2023). In the complaint petition, the complainant/petitioner has stated that he had lodged an FIR on 14.08.2024 against the O.P.Nos.1 & 2 before the IIC, Capital Police Station, Bhubaneswar UPD, but the IIC did not receive the copy of that FIR and asked him to come back after five days. On 19.08.2024, the IIC, Capital Police Station, Bhubaneswar finally refused to register the FIR and advised the complainant/petitioner to take shelter in proper Court of Law. Accordingly, the complainant/petitioner submitted an FIR before the DCP, Bhubaneswar on 19.08.2024, however, the DCP, Bhubaneswar also refused to register the FIR on 02.09.2024. Then, he had filed the complaint, vide 1 C.C. Case No. 6960 of 2024. A perusal of the impugned order, it appears, the learned SDJM, Bhubaneswar rejected the complaint basically on two grounds viz.- firstly, prima facie, no case was made out against the O.P.Nos.1 & 2 and secondly, statutory compliance U/s.173(4) of BNSS, 2023 was not complied with before presenting the complaint. As far as non-compliance of statutory compliance in terms of Section 173(4) of BNSS, 2023 is concerned, Mr. Manoj Nayak, learned counsel for the petitioner during course of argument contended that when the IIC of Capital Police Station, Bhubaneswar did not register the FIR submitted by the petitioner, the petitioner had submitted a copy of the FIR

before the DCP, Bhubaneswar on 19.08.2024. Therefore, the finding of the learned SDJM, Bhubaneswar that statutory compliance of Section 173(4) of BNSS, 2023 was not complied with is not correct. On the other hand, Mr. Ashok Parija, learned Senior Advocate for the O.P.Nos.1 & 2 contended that in terms of Section 173(4) of BNSS, 2023, the petitioner had to present the copy of the FIR before the DCP, Bhubaneswar, which he had submitted before the IIC, Capital Police Station, Bhubaneswar by registered post. Then, it can only be construed that statutory compliance of Section 173(4) of BNSS, 2023 was made. But, in the present case, the petitioner submitted a cryptic letter on 19.08.2024 before the DCP, Bhubaneswar. A copy of the FIR which he had submitted before the IIC, Capital Police Station, Bhubaneswar was also not part of his letter dated 19.08.2024. That apart, the report dated 19.08.2024 stated to have been delivered at the Office of the DCP, Bhubaneswar lacks authenticity. Therefore, there was no statutory compliance of Section 173(4) of BNSS, 2023 by the petitioner before presenting the complaint against the O.P.Nos.1 & 2.

5. A perusal of the 1st FIR lodged by the petitioner on 14.08.2024 before the IIC, Capital Police Station, Bhubaneswar, it appears, he has averred his source of information about misutilization/misappropriation of public funds, so also collection of illegal funds from different sources to organize public meetings and arranging food and other necessities for the public, those who had attended the

public meetings at different places. In the 2nd FIR submitted before the DCP, Bhubaneswar on 19.08.2024, which is a cryptic one, the petitioner has averred gross misappropriation of funds making massive black money to white, violation of Government norms and conduct rules, acceptance of huge bribes, gratification from mining owner and other companies to show them undue favour by the O.P.No.1, who was the Principal Secretary to Chief Minister in 2023. The source of information and allegation about misappropriation/misutilization of public fund as reflected in the 1st FIR was not mentioned in the 2nd FIR/report dated 19.08.2024. Further, it appears, a copy of the report dated 19.08.2024 was received at the Office of the DCP, Bhubaneswar on 19.08.2024, but the identity of the receiving officer or the official seal is absent by its conspicuous.

6. Section 173(4) mandates that any person aggrieved by a refusal on the part of an Officer-In-Charge of Police Station to record the information under Sub-Section (1) may send the substance of information in writing by post to the Superintendent of Police concerned. If the Superintendent of Police or any other police officer directed by him failed to register & investigate the case, then, the aggrieved person may make an application to the Magistrate. In this case, the petitioner has asserted that the IIC, Capital Police Station, Bhubaneswar did not register his FIR dated 14.08.2024 and refused to do so on 19.08.2024. On the same day, the complainant/petitioner submitted a report before the DCP,

Bhubaneswar. As referred to above, the report submitted before the DCP, Bhubaneswar should have contained the substance of such information i.e. the information contained in the 1st FIR. But, the report dated 19.08.2024 submitted by the complainant/petitioner before the DCP, Bhubaneswar is a very cryptic one and does not disclose the substance of his 1st FIR, which was submitted before the IIC, Capital Police Station, Bhubaneswar on 14.08.2024. That apart, Section 173(4) of BNSS mandates that the report must be sent to the Superintendent of Police/DCP by post. In the present case, the report dated 14.08.2024 or even 19.08.2024 was not sent by the petitioner to the DCP, Bhubaneswar by post, rather it was stated to have delivered at the Office of the DCP, Bhubaneswar. The petitioner has failed to authenticate the receipt of his report dated 19.08.2024 at the Office of DCP, Bhubaneswar. Therefore, in view of the aforesaid circumstances and the decision of the Hon'ble Supreme Court in the case of **Ranjit Singh Bath & another Vs. Union Territory Chandigarh & another** reported in **2025 LiveLaw (SC) 329**, the complainant/petitioner had not complied the statutory compliance of Section 173(4) of BNSS, 2023 before presenting the complaint. Thus, this Court is of the considered opinion that the learned SDJM, Bhubaneswar is very much correct in his finding in that respect.

7. Further, the learned SDJM, Bhubaneswar dismissed the complaint on the ground that the allegations made in the

complaint petition are not only omnibus in nature, but also not supported by any substantive material to arrive at a prima facie conclusion that the accused persons/O.P.Nos.1 & 2 have, in fact, committed any criminal offences as reflected in the complaint petition. The Hon'ble Supreme Court in the case of **Priti Agarwalla and others (Supra)**, have held that the learned Magistrate before sending the complaint for its registration & investigation by the local police in terms of Section 175(3) of BNSS, 2023 (U/s.156(3) of Cr.P.C.) must be satisfied whether the complaint makes out a cognizable offence or not. Therefore, in view of the decision of the Hon'ble Supreme Court, forwarding the complaint U/s.156(3) of Cr.P.C. (U/s.175(3) of BNSS, 2023) is not a routine or mechanical function, rather it is the prima facie satisfaction of the learned Magistrate to assess at the first instance about commission of any cognizable offence.

8. Thus, in view of the above, let us refer the allegations made by the complainant/petitioner in his complaint petition to assess whether any cognizable case supported with materials was made out or not. The petitioner in his complaint petition has made reference about his source of information regarding misappropriation/misutilization of public funds collected by his witnesses through RTI. At Paragraph No.8(g), the petitioner has made the following allegations:-

“XXXXX

XXXXX

XXXXX

That, the accused person had gone to all Districts which was around 300 (Three Hundred)

Helicopter Trip without any sanction of money from the Government Exchequer as per the information gathered from the RTI and it is clear that all the expenses were made by the Mining Owners, Land Mafia & Real Estate Owners, Non-Odia Contractors & Black Money uses from the different soruces.

XXXXX XXXXX XXXXX”

In the 1st FIR dated 14.08.2024, at Paragraph No.10, the petitioner has alleged in the following manner:_

“XXXXX XXXXX XXXXX

When there is no such sanction of fund, now the question is who bears the cost. It is alleged that the whole expenses is made by Mining owners, Land mafia and Non-Odia Contractors and black money used from various sources.

XXXXX XXXXX XXXXX”

In the 2nd FIR dated 19.08.2024 before the DCP, Bhubaneswar, the petitioner’s allegation was in the following manner:-

“XXXXX XXXXX XXXXX

I Sri Sudhir Charan Mohanty, Advocate beg to state that I had filed an FIR dt.14.8.24 in Capital Police Station seeking an inquiry into gross misappropriation of fund, making massive black money white, violation of Govt. norm and conduct Rules, acceptance of huge bribes, gratification from mining owner and other companies to show them undue favour by Sri V.K. Pandian who was the Principal Secretary to Chief Minister in 2023 to subserve the interest of the then ruling party BJD and its leaders under the direction of the then Chief

Minister Naveen Patnaik assisted by other state Govt. employees, some of whom still serving.

XXXXX

XXXXX

XXXXX”

9. A perusal of the TCR in 1 C.C. Case No.6960 of 2024, it appears, the complainant/petitioner did not file a single scrap of paper or information, which he had collected from his witnesses to prima facie assess the commission of any cognizable offence and more so about the involvement of the O.P.Nos.1 & 2 in commission of the offences alleged. Therefore, this Court, after a close scrutiny of the allegations made in the complaint petition as well as in his earlier reports dated 14.08.2024 & 19.08.2024, does not find any prima facie material about commission of any cognizable offence, and more precisely the offences alleged against the O.P.Nos.1 & 2 in the complaint petition. Thus, this Court does not find any illegality committed by the learned SDJM, Bhubaneswar to arrive at a conclusion that the allegations made in the complaint petition are not only omnibus in nature, but also not supported by any substantive material to arrive at a prima facie conclusion that the accused persons have, in fact, committed any criminal offence.

10. As it appears, the complainant/petitioner is neither a victim nor affected by the offences allegedly stated to have been committed by the O.P.Nos.1 & 2. However, he being a member of public, in terms of Section 33 of BNSS, 2023, has got every right to give information when he is aware of the commission of any offence or regarding intention of any

other person to commit any offence either to the nearest Magistrate or police officer about such commission of offence or intention of any other person to commit such offence. However, there is a rider in Section 33 of BNSS, 2023 that he or she can only report or file complaint in relation to the offences U/s.103 to 105, 111 to 113, 140 to 144, 147 to 154, 158, 178 to 182, 189, 191, 274 to 280, 307, 309 to 312, 316(5), 326 to 328 and Section 331 and 332 of BNS. In the present complaint, the complainant/petitioner has alleged about the commission of offences punishable U/s.198, 199, 318(2), 318(4), 324(2), 316(2), 336(1), 335, 338, 336(3) and 61(2) of BNS, 2023. None of the sections alleged in the complaint case comes within the purview of Section 33 of BNSS, 2023.

11. Thus, in view of the aforesaid discussion, this Court is of the considered opinion that the complaint/petitioner neither made out any case under any of the penal sections referred to in the complaint petition with supported materials nor adhered to the mandatory compliance of Section 173(4) of BNSS, 2023 before presenting the complaint nor he had got any locus-standi to present the complaint in terms of Section 33 of BNSS, 2023.

Resultantly, this Court does not find any illegality in the impugned order dated 25.03.2026 passed by the learned SDJM, Bhubaneswar in dismissing the petitioner's complaint, vide 1 C.C. Case No.6960 of 2024. Hence, ordered.

O R D E R

The criminal revision is dismissed.

Send back the TCR along with the copy of this order forthwith to the concerned Court for information and necessary action.

Dictated & corrected by me

Sessions Judge, Khurda
at Bhubaneswar.

Sessions Judge, Khurda
at Bhubaneswar.

Pronounced this order in the Open Court on this the 2nd day of September, 2026 under my seal and signature.

Sessions Judge, Khurda
at Bhubaneswar.